

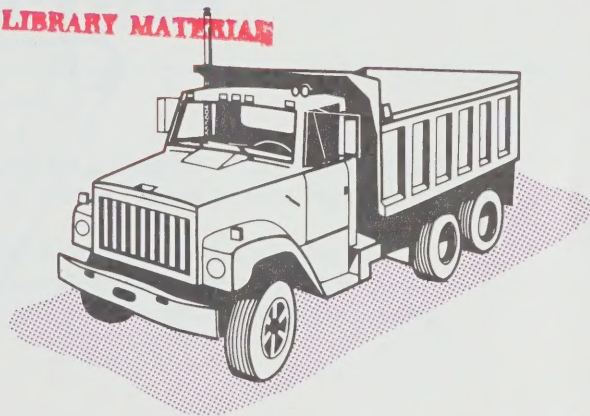


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A GUIDE

How to apply for a Class "R" P.C.V. Licence

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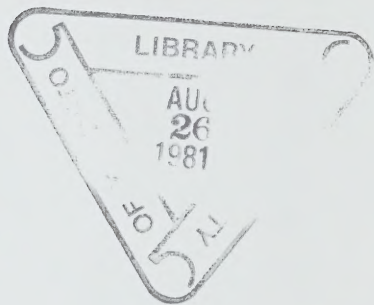
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Ontario
Highway
Transport Board

151 BLOOR STREET WEST, TORONTO, ONT. M5S-2T5



Introduction

The purpose of this booklet is to give applicants for a Class “R” Public Commercial Vehicle Operating Licence information on how to apply to the Ontario Highway Transport Board.

The Ontario Highway Transport Board holds hearings to decide whether to authorize the issue of a licence based on the specific evidence *you* bring in support of *your* application. All applications for Class “R” licences are subject to the hearing process.

THE LAW

The Public Commercial Vehicles Act (PCV Act), Ontario states that any person who transports the goods of another person for compensation beyond an urban zone requires an operating licence. A Class "R" operating licence applies to the following commodities:

- (a) sand, gravel, earth, crushed or uncut rock and stone, asphalt mixes, slag and rubble; and
- (b) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stockpiles for further use on highway construction or maintenance sites."

Class "R" operating licences are granted on the basis of a regional area(s) as defined in Regulation 700 under The P.C.V. Act.

The regions within which Class 'R' Vehicles can be operated pursuant to a Class 'R' operating licence:

- 1. Region 2** - consisting of,
 - (i) The Municipality of Metropolitan Toronto,
 - (ii) The Regional Municipalities of Niagara, Hamilton-Wentworth, Halton, Peel, York and Durham, and
 - (iii) The counties of Victoria, Peterborough, Northumberland and Brant.
- 2. Region 3** - consisting of,
 - (i) The Regional Municipalities of Waterloo and Haldimand-Norfolk, and
 - (ii) the counties of Essex, Kent, Elgin, Lambton Middlesex, Oxford, Huron, Wellington, Bruce, Grey, Dufferin, Perth and Simcoe.

3. Region 4 - consisting of,

- (i) The Regional Municipality of Ottawa-Carleton, and
- (ii) the counties of Prescott, Glengarry, Russell, Stormont, Dundas, Grenville, Leeds, Lanark, Frontenac, Prince Edward, Hastings, Lennox and Addington and Renfrew.

4. Region 5 - consisting of,

- (i) the Provisional County of Haliburton
- (ii) the Regional Municipality of Sudbury,
- (iii) the District Municipality of Muskoka, and
- (iv) the districts of Parry Sound, Nipissing, Manitoulin, Algoma, Sudbury, Timiskaming and Cochrane.

5. Region 6 - consisting of,

- (i) the districts of Thunder Bay, Rainy River and Kenora. O. Reg. 33/76, s. 1 (3) part.

How to Apply

The Board must determine based on **“public necessity and convenience”** whether the class “R” licence should be granted.

To apply for a Class “R” operating licence, you must complete an application form, available from the Ontario Highway Transport Board and all M.T.C. Regional and District offices, send the completed application to the Ontario Highway Transport Board, 151 Bloor Street West, 10th Floor, Toronto, M5S 2T5 with a fee of \$25.00. Board staff will gladly assist you in completing the application. Staff are available between 8:00 a.m. and 4:00 p.m. to provide personal assistance or you may write, or telephone 965-1845.

Notice and Hearings

Applications received in the fall and winter of any year may be grouped by the Board for hearings in the early spring of the following year, prior to the commencement of the prime construction season. At these hearings, the Board receives general information with respect to anticipated demand for Class 'R' vehicles in the various regions of the province in the forthcoming year.

Each application is published in the Ontario Gazette. (Official publication of the Government of Ontario, published weekly by the Queen's Printer and available by subscription from the Queen's Printer or from the Government Bookstore, 880 Bay Street, Toronto.) This advises the general public of the applicant's intention to begin or expand a trucking business so that any person with an interest in the application may object or make other representations to the Board at the hearing.

As the applicant, you will have to attend a public hearing to prove that the trucking service you wish to provide is necessary and convenient. It is necessary that the Board be told at the hearing **by shippers** why the service is needed and how it will be useful. Hearings are held at convenient locations throughout the province.

Bring to the hearing as many of the people who will use and benefit directly from your service to describe in their own words why you should be granted the licence.

Opposition

Any person may oppose the granting of a licence and thereby become a party to the hearing (Such person is called a “respondent”). Usually it is people who already hold licences in the area who oppose new applications. To oppose the granting of a licence a person must file with the Board and serve notice on the applicant of his opposition and reasons in writing at least 15 days before the hearing.

A “respondent” may bring knowledgeable witnesses in the dump truck business to support his case before the Board.

A respondent may try to prove to the Board that the applicant:

- is not a fit person to operate a trucking business;
- that the respondent can and wants to do all the things that the applicant wants to do;
- that there are enough trucks already licensed in the area.

What is Public Necessity & Convenience?

The Board must determine in class “R” applications whether “public necessity and convenience warrant the issue of a licence and will be served thereby.”

It is important to note that this is the only test. The principles underlying the law include the belief that there is a need for an efficient, viable trucking industry to serve Ontario’s needs on a continuing basis.

Let us briefly examine these ideas to see whether they lead to a better understanding of “public necessity and convenience.”

In an application the Board will consider the (potential) viability and efficiency of the applicant and of the industry to be served.

The fundamental notion of **‘supply and demand’** plays an important part in this process.

For a trucker this simply means “making a go of it” that he has the potential to carry on a business successfully. To assume and discharge financial responsibilities and demonstrate an ability to provide a service to present and potential customers and to seek out new business in the future.

To do that requires evidence on a wide range of specific matters, many of which are set out in the following pages.

Supply and Demand

In almost every Class “R” case, the most important question to be answered is, “Are more trucks required to meet the demand at competitive, yet compensatory rates?”

“Supply” refers to: the number of trucks available to serve the needs of shippers in an area.

“Demand” refers to: the number of suitable trucks required to move the commodities involved. The demand for trucks depends on the urgency of the need for the commodities. This, in turn may depend on such things as the amount of highway construction or residential/commercial development.

Evidence Which May Be Required in Class "R"

Evidence You May Need at the Hearing

1. Major projects under construction or planned which will require trucks - e.g. housing developments, shopping malls, new factories, roads, bridges?
2. Details from shippers as to volumes to be shipped, number and type of trucks hired on a daily average.
3. Are additional carriers needed? Why? Will anyone be laid off? Will the applicant be a regular carrier?
4. Details of what licensed carriers have been asked to supply trucks and been unable to supply them; the dates of such requests; the amount of work offered, the rate and the amount of advance notice given.
5. What other Class "R" applications have shipper witnesses supported in the past? When?
6. At what rate is the applicant willing to work?

Who Might Provide it

- Personal knowledge of local development
- Staff of construction companies
- Municipal or Provincial construction officials.
- Shippers and contractors.

- Shippers
- Supporting shipper(s)

- ”
- ”
- ”

- Applicant

PCV Operating Licence Application Hearings

Why is this Evidence Important to the Board?

To assist the Board to determine whether changes in demand might reasonably be expected.

To help determine the level of demand/need and whether it will be continuous over the next several months.

To test the need, the duration and the reason for the need (a need for a backup carrier only is not normally enough to result in a certificate).

To help determine whether existing truckers could meet the need.

To better assess the demand of the witnesses and understand the nature of the shippers business.

To help determine whether the service will be profitable. The Board believes that when an operator can offer good reliable service at a lower rate because of operational efficiencies, he should be encouraged to do so. However, too low a rate is not in the public interest.

Evidence Which May Be Required in Class "R"

Evidence you may need at the Hearing

7. Is the applicant willing to move to find work?
8. What rates are being paid to existing truckers, and what rate will be paid to the applicant?
9. How do these rates compare with other shippers in the area? With M.T.C. rates?
10. What is the previous business experience and if applicable what is the previous operating record of the applicant?
11. Does the applicant have the financial resources and ability to perform the service on a viable basis? Does the applicant have the financial resources to purchase the required vehicles if necessary?
12. Are the required vehicles readily available?
13. How does the applicant intend to maintain his vehicle(s)? (Ontario law requires that dump vehicles be safety inspected at a registered vehicle safety inspection station twice a year.)
14. What is the age and type of vehicle(s) (for example, single axle, tandem or tractor trailer) to be operated? Are they suitable for the particular shipper need and the area need in general?

Who might provide it

- Applicant
- Supporting shipper(s)
- Supporting shipper(s)
- Applicant
- Other shippers
- "
- "
- Applicant

PCV Operating Licence Application Hearings

Why is this evidence important to the Board

To help determine the relationship between demand and the availability of vehicles. The Board has an interest in whether rates are competitive yet compensatory. A balance must be found.

To help indicate whether shortages might exist in local areas. To help determine whether the new trucker will be likely to stay put or move to other jobs. The Board believes enough trucks should be licensed to allow reasonable price competition.

The Board believes Class "R" operators should be mobile and active in their pursuit of work and at the same time, that shippers are best served by regular local carriers.

To determine whether the applicant is able to provide a reliable service at a profit.
To ensure he is aware of the importance of safety on the highways.

Each Application Must be Decided on its own Merits

The following will give you an idea of the sort of information the Board will be looking for and considering in your particular application. Think your application through carefully and try to be in a position to answer as many of the questions that might be asked, as you can.

WITNESSES AND TYPES OF EVIDENCE

You should be aware that the most useful and reliable evidence may be given by persons with commodities to move and who will require your services directly. Of much lesser value is the witness supporting an application from a related company, small contractors supporting each other or a contractor who holds a Class 'R' authority.

Evidence of illegal activity in the past does not create any right to a new or expanded class "R" authority.

A desire to "follow" a shipper say from an urban zone activity which was exempt from licensing - does not by itself demonstrate "public necessity and convenience".

Applications from pit owners and/or contractors and who desire class "R" authority to work for the public when their own work is slack require strong evidence to off-set the arguments that issuing these people licences might not be in the best public interest.

ORDER IN COUNCIL POLICY STATEMENTS

The Lieutenant Governor in Council may set out from time to time policy statements which the Board is then bound to consider in determining questions of “public necessity and convenience”. At the present time, there is no such direction with specific reference to Class “R” applications, however, there is a policy statement which is generally applicable to applications under the PCV Act. The relevant Order in Council deals with such matters as:

- Ontario’s economic productivity,
- capital, equipment and manpower resources,
- energy and empty movements,
- level and type of service,
- cost,
- competition,
- innovation in service levels, equipment, design and utilization, administration and freight handling procedures,
- intra-modal and inter-modal co-ordination; and
- size of operators.

You should familiarize yourself with the content of this and other policy statements which may be issued before the hearing of your application. Many of the questions outlined in the preceding section of this brochure are designed to encourage evidence on the same topics dealt with in the existing policy statement. However, in reading and thinking about the actual policy statement, you might well get new or different ideas on how to present your case.

Certificates and Operating Licenses

A certificate of public necessity and convenience issued by the Board is **not** an operating licence.

When you have obtained a copy of a certificate of “public necessity and convenience” from the Board, you must meet additional requirements before a Class “R” operating licence can be issued to you by the Ministry of Transportation and Communications.

The ministry requirements include the filing of insurance, proof of Workman’s Compensation where necessary and completed application for the public commercial vehicle class “R” vehicle licence.

REMEMBER - A certificate is not an operating licence!

Transfers of Class "R"

A Class "R" operating licence may be transferred to another person. However, any transfer must be approved by the Minister of Transportation and Communications. Such approval is sought by the transferee, (the person buying the licensed trucking business). Application forms for transfer are available from the Board.

An application must be completed and submitted to the Board along with a fee of \$25.00 and

- (i) a statutory declaration showing the liabilities if any, of the licensee (present owner) and how they are to be liquidated; and
- (ii) a copy of the agreement between the licensee and the transferee covering the sale of the business equipment, vehicles and vehicle licences.

The Board will publish the transfer under Section 8 of Regulation 632 made pursuant to The Ontario Highway Transport Board Act, which allows notice to be given without fixing a date for a hearing. If no opposition is received within 29 days of the date of publication then the Board may dispose of the transfer without a public hearing. In certain cases, the Board will set the transfer application down for a public hearing whether or not opposition is received.

At least one of the vehicles referred to in the Agreement and being sold must be registered and currently licensed in the name of the person selling (the transferor). This is extremely important because an operating licence automatically expires on July 1st, unless vehicle licences are renewed. No transfer application can be processed unless the operating licence is valid. Even where a transfer application is

Operating Licences

filed when licences are valid, if all licences are allowed to expire (on July 1st) then the transfer is nullified.

The purchase from a licensee of a vehicle alone does not entitle the purchaser to operate a for hire transportation service.

There is a general misunderstanding in the industry of the way in which the purchase of a vehicle relates to obtaining approval to transfer a Class "R" operating licence. It is not uncommon that an individual entering the trucking business for the first time may purchase a vehicle from another party who is the holder of an operating licence. The purchaser proceeds to register the vehicle as required by the Highway Traffic Act, (this identifies the change in ownership of the commercial vehicle).

Often, the new truck owner believes that he has fulfilled all the legal requirements and is now in a position to carry on a for-hire transportation service. But, as explained **THIS IS NOT** the case.

The transfer of a commercial motor vehicle permit or ownership of the vehicle does not result in the transfer of the operating licence.

The purchaser should first apply for transfer of the operating licence as outlined above. It is only after the Minister approves the transfer of an operating licence, that the purchaser of the business should apply to the Ministry to have the vehicle licence transferred.

Please Note

The Board is not limited by either Order in Council statements or the type of evidence outlined above. It may and does consider other matters in particular hearings.

Neither applicants nor respondents in Class "R" applications are limited by the information presented in this publication.

The Board strongly recommends applying for an operating licence, - either by way of new or transfer application - before purchasing the vehicles to be used.

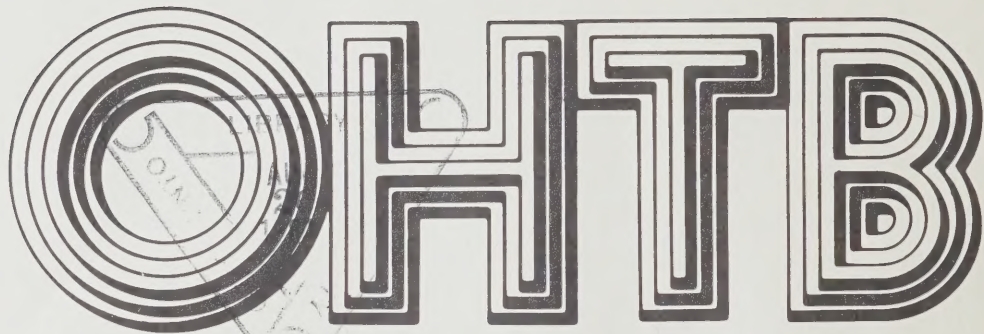
Recommended Reading

1. **Report on Class "R" Licensing Policy and Procedure** O.H.T.B. July 1979 (available on request).
2. Certain Orders in Council which outline additional factors which must be taken into account when determining public necessity and convenience in trucking applications (available on request).
3. **Public Commercial Vehicles Act, Ontario** - O.H.T.B. Library.
4. **Report of the Select Committee on the Highway Transportation of Goods, 1977**, - O.H.T.B. Library.
5. **Pamphlet on making applications to the Board.** Available on request.

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ONTARIO HIGHWAY TRANSPORT BOARD